

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EZRA ALEM,

Plaintiff,

v.

ADRIAN DIAZ, *et al.*,

Defendants.

CASE NO. C22-0513-JCC

ORDER

This matter comes before the Court *sua sponte*. On April 21, 2022, United States Magistrate Judge Michelle L. Peterson granted Plaintiff's motion to proceed *in forma pauperis* and recommended that the complaint be reviewed under § 1915(e)(2)(B) before the issuance of a summons. (Dkt. No. 4.) Upon review, this Court found that Plaintiff failed to state a claim upon which relief could be granted and ordered Plaintiff to amend his complaint. (Dkt. No. 6.) The Court gave Plaintiff 21 days to cure the complaint's defects by alleging facts that, if true, would show that (1) the conduct at issue violated clearly established law; (2) Chief Diaz participated in, directed, or knew of and failed to prevent the challenged conduct; and (3) Prosecuting Attorney Satterberg was not acting as an officer of the court during the challenged conduct. (*Id.* at 2–3.)

Plaintiff has not filed an amended complaint curing these defects. Instead, he filed a motion for discovery (Dkt. No. 8), a request for oral argument (Dkt. No. 9), and a civil cover sheet (Dkt. No. 10). In doing so, he contends that he has no way of obtaining the facts necessary

1 to state a claim without first conducting discovery. (Dkt. No. 8-1 at 2.)<sup>1</sup> But the Court did not ask  
2 Plaintiff to *prove* facts showing that he was entitled to relief—only to *allege* such facts. (Dkt.  
3 No. 6 at 3.) Plaintiff’s contention that he needs discovery to make an adequate pleading is  
4 circular, unpersuasive, and not consistent with the Federal Rules of Civil Procedure, particularly,  
5 Rule 8.

6 Even applying the Ninth Circuit’s directive to construe *pro se* complaints liberally, the  
7 Court cannot find that Plaintiff has stated a claim upon which relief can be granted. *See Hebbe v.*  
8 *Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). Plaintiff’s complaint does not contain sufficient facts  
9 supporting his conclusions and contains no legal theory that would overcome qualified immunity  
10 or prosecutorial immunity. (*See generally* Dkt. No. 6.) Further, Plaintiff failed to file an amended  
11 complaint when given an opportunity by the Court. (*Id.*)

12 For the foregoing reasons, and because it would appear based on Defendant’s contentions  
13 that amendment would be futile, the Court DISMISSES the complaint without prejudice and  
14 without further leave to amend. The Clerk is DIRECTED to mail a copy of this order to Plaintiff.

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16 DATED this 16th day of May 2022.

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20 John C. Coughenour  
21 UNITED STATES DISTRICT JUDGE  
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24 <sup>1</sup> Plaintiff writes that “a better and more attempt of finding the facts before the thoughts  
25 of dismissal is to be brought would potentially provide the necessary amount of proof the court  
26 would need the additional information would also provide other misconducts made by those who  
were under the color of the law to present other violations of police conducts and prosecutorial  
abuse of discretion.” (Dkt. No. 8-1 at 2.)